GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri Ramanaidu Venkateshwarlu S/oYellaiah Occ: Secondary Grade Assistant, MPPS, Kothur of Vedavaluru(M), Nellore District, against the Proceedings Rc.-*C5(M) 718/2008, dated 28.3.2009 of the District Collector, SPSR Nellore under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 93 Dated: 09-11-2017
Read the following:

1. Proceedings of the District Collector, SPSR Nellore District, Rc.C5(M) 718/2008, dated 28.3.2009.
2. Orders of the Hon'ble High Court, AP, Hyderabad in W.P.M.P.No.11267/2009 of W.P.8607/2009, dated 24.04.2009.
3. Appeal petition filed by Sri Ramanaidu Venkateshwarlu S/o Yellaiah Occ: Secondary Grade Assistant, MPPS, Kothur of Vedavaluru(M), Nellore District, dated 21.04.2009.
4. Govt. Memo No.3762/CV.2/2009-1, SW(CV.2) Deptt., dated:18.5.2009.
5. From the District Collector, Nellore, Lr.No.Rc.C5(M)849/09, dated:20.06.2009.
6. Govt. Memo No.3762/CV.2/2009-1, S.W.(CV.2) Deptt., dated 31.08.2013, 19.02.2014 & 27.08.2015.
7. Govt. Memo No.3762/CV.2/2009-1, T.W.(CV.2) Deptt., dated 18.08.2017.
8. Order of the Hon'ble High Court of A.P., Hyderabad in WP No.8607/2009, dated 28.08.2009.
9. Written arguments filed by the Appellant before the Hon'ble Minister(SWE&TWE), dated 16.09.2017.

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ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders canceling the ST – Yanadi Caste Certificate obtained from the then Tahsildar, Kodavaluru on 1986 by Sri Ramanaidu Venkateshwarlu S/oYellaiah.

2. In the reference 2nd read above, Sri Ramanaidu Venkateshwarlu S/oYellaiah, has filed WP No.8607/2009, before the Hon'ble High Court of A.P., Hyderabad against the said proceedings of the District Collector, SPSR Nellore and he has also filed W.P.M.P. No.11267/2009 in W.P.No.8607/2009, before the Hon'ble High Court of A.P., Hyderabad while seeking stay on the proceedings of the District Collector, SPSR Nellore. In the said WP MP, the Hon'ble High Court of AP, Hyderabad on 24.04.2009, has ordered that there shall be interim stay on the proceedings of the District Collector, SPSR Nellore as prayed for.

3. In the reference 3rd read above, Sri Ramanaidu Venkateshwarlu S/o Yellaiah, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, SPSR Nellore, in the reference 4th read above.

4. In the reference 5th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Ramanaidu Venkateshwarlu S/oYellaiah.

[P.T.O]

5. The said Appeal Petition has been posted for hearing on 12.09.2013, 24.02.2014, 19.09.2015 and finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 6th & 7th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant/ the Counsel for the appellant have attended the hearing on 16.09.2017 and argued the case, submitted written arguments in support of his ST-Yanadi community claim in the reference 9th read above.

6. In the reference 8th read above, the Hon'ble High Court of A.P., Hyderabad, while disposing the W.P.No.8607/2009 filed by the appellant on 28.08.2017 has ordered the Government to dispose off the appeal filed by the petitioner vide appeal No.3762/CV.2/2009 in accordance with law as expeditiously and as possible.

7. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore, dated 28.03.2009, the Appellate Authority has observed that:

I. The appellant in his grounds has stated that the appellant hails from poor Yanadi, which classified as Scheduled Tribe Community and his father and grandfather also belongs to same community and originally native of Gamalapalem of Damekunta Village, Kodavalur Mandal, SPSR Nellore District.

II. The District Level Scrutiny Committee has observed that the appellant does not know his paternal grandfather's name and details of marriage and he have marital relations with Balija Community only. Further his surname is Ramanayudu and his mother's surname (before marriage) is Gapathi, are not found among Yanadi Community and he does not know any other surnames of Yanadi Community, even though there are about (40) families at Gamallapalem, he does not have any relatives, which is not reliable as his family residing since forefather's time and his caste recorded as Balija in his school certificate (as per complaint). Finally, the DLSC has recommended to the District Collector, for cancellation of ST-Yanadi caste certificate of the appellant.

III. Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of arguments, the appellant submitted that the DLSC(District Level Security Committee) under the act is bound to certify the school certificates and also conduct Anthropological studies so as to decide the social status of the ST community people and the DLSC failed to conduct such enquire to ascertain the community of the appellant and further stated that he travelled from village to village along with ducks, he was above age he was directly admitted to 3rd class and entire school records of him shows that he belongs to ST community and further stated that the Police case filed against him is also ended in Acquittal and only after death of his wife, reports were lodged against him even he is

[Contd. on P.3]

looking after his children with great care and humanity within the means available to him. On verification of the arguments and the documents and the grounds appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the appellant version is more probable than that of the other reports and further it is noticed that after demise of the appellant that he is looking after children with utmost care and caution. The present report is only outcome at the instance of the relatives of the wife of the appellants taking consideration of the disputes between them. That the community of a person cannot be decided on the strength of the marriage with other caste and an independent enquiry before the community of one can't be decided and the taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

8. In view of the several reasons recorded in the paras supra and after careful examination of the appeal petition, the Government in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), hereby allow the Appeal Petition filed by Sri Ramanaidu Venkateshwarlu S/oYellaiah, by upholding his Scheduled Tribe (Yanadi) claim and the Proceedings of the District Collector, SPSR Nellore issued in the reference 1st read above are set- aside.

9. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

10. The records (containing No.D.Dis.718/2008, Pages:CF: 1-262, NF: 1-7) received from the District Collector, SPSR Nellore through the reference 5th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore.
(with original records) (BY RPAD)

Sri Ramanaidu Venkateshwarlu S/o Yellaiah
Occ: Secondary Grade Assistant, MPPS, Kothur of Vedavaluru(M),
Nellore District.

Sri C. Pratap Reddy, Advocate, 5-10-188, Flat No.203, III Floor,
Kalpana Towers, Hill Fort Road, Hyderabad.

Copy to :

The Director, TCR& TI, A.P., Amaravathi.
The PS to M(SWE & TWE).
The PS to Principal Secretary (TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER